



February 8, 2008

ENGROSSED HOUSE BILL No. 1111

DIGEST OF HB 1111 (Updated February 6, 2008 3:22 pm - DI 87)

Citations Affected: IC 32-21; IC 36-2.

Synopsis: Requirements for recording documents and copies. Requires (rather than allows) a recorder to record a document or a copy of a document if: (1) the document complies with other statutory recording requirements; and (2) the document or copy will produce a clear and unobstructed copy. Provides that a recorded copy has the same effect as if the original document had been recorded. Specifies that a provision in current law, which states that a recorded mortgage not meeting certain statutory requirements constitutes constructive notice, applies regardless of when the mortgage was recorded.

Effective: July 1, 2008.

Foley, Klinker, Smith V, Harris T
(SENATE SPONSORS — LAWSON C, BRODEN)

January 8, 2008, read first time and referred to Committee on Local Government.
January 24, 2008, amended, reported — Do Pass.
January 28, 2008, read second time, ordered engrossed. Engrossed.
January 29, 2008, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Local Government and Elections.
February 7, 2008, amended, reported favorably — Do Pass.

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February 8, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1111

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-21-4-1, AS AMENDED BY P.L.135-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 1. (a) The following must be recorded in the
4 recorder's office of the county where the land is situated:

5 (1) A conveyance or mortgage of land or of any interest in land.

6 (2) A lease for more than three (3) years.

7 (b) A conveyance, mortgage, or lease takes priority according to the
8 time of its filing. The conveyance, mortgage, or lease is fraudulent and
9 void as against any subsequent purchaser, lessee, or mortgagee in good
10 faith and for a valuable consideration if the purchaser's, lessee's, or
11 mortgagee's deed, mortgage, or lease is first recorded.

12 (c) This subsection applies only to a mortgage. **This subsection**
13 **applies regardless of when a mortgage was recorded. If:**

14 (1) an instrument referred to in subsection (a) is recorded; and

15 (2) the instrument does not comply with the:

16 (A) requirements of:

17 (i) IC 32-21-2-3; or

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1 (ii) IC 32-21-2-7; or
 2 (B) technical requirements of IC 36-2-11-16(c);
 3 the instrument is validly recorded and provides constructive notice of
 4 the contents of the instrument as of the date of filing.

5 SECTION 2. IC 36-2-11-16 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) This section
 7 does not apply to:

- 8 (1) an instrument executed before November 4, 1943;
 9 (2) a judgment, order, or writ of a court;
 10 (3) a will or death certificate; or
 11 (4) an instrument executed or acknowledged outside Indiana.

12 (b) Whenever this section prescribes that the name of a person be
 13 printed, typewritten, or stamped immediately beneath ~~his~~ **the person's**
 14 signature, the signature must be written on the instrument, directly
 15 preceding the printed, typewritten, or stamped name, and may not be
 16 superimposed on that name so as to render either illegible. However,
 17 the instrument may be received for record if the name and signature
 18 are, in the discretion of the county recorder, placed on the instrument
 19 so as to render the connection between the two apparent.

20 (c) The recorder may receive for record an instrument only if:
 21 (1) the name of each person who executed the instrument is
 22 legibly printed, typewritten, or stamped immediately beneath ~~his~~
 23 **the person's** signature or the signature itself is printed,
 24 typewritten, or stamped;
 25 (2) the name of each witness to the instrument is legibly printed,
 26 typewritten, or stamped immediately beneath ~~his~~ **the signature of**
 27 **the witness** or the signature itself is printed, typewritten, or
 28 stamped;
 29 (3) the name of each notary public whose signature appears on the
 30 instrument is legibly printed, typewritten, or stamped immediately
 31 beneath ~~his~~ **the signature of the notary public** or the signature
 32 itself is printed, typewritten, or stamped; and
 33 (4) the name of each person who executed the instrument appears
 34 identically in the body of the instrument, in the acknowledgment
 35 or jurat, in ~~his~~ **the person's** signature, and beneath ~~his~~ **the**
 36 **person's** signature;

37 or if subsection (d) is complied with.

38 (d) The recorder may receive for record an instrument that does not
 39 comply with subsection (c) if:

- 40 (1) a printed or typewritten affidavit of a person with personal
 41 knowledge of the facts is recorded with the instrument;
 42 (2) the affidavit complies with this section;

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(3) the affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section; and

(4) when the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(e) The recorder ~~may~~ **shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

All copies accepted for recording shall be marked as copies by the recorder.

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section.

A recorded copy shall have the same effect as if the original document had been recorded.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1111, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 33, reset in roman "and".

Page 2, line 35, delete "; and" and insert ".".

Page 2, delete lines 36 through 38.

and when so amended that said bill do pass.

(Reference is to HB 1111 as introduced.)

SMITH V, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred House Bill No. 1111, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-21-4-1, AS AMENDED BY P.L.135-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

(1) A conveyance or mortgage of land or of any interest in land.

(2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

(c) This subsection applies only to a mortgage. **This subsection applies regardless of when a mortgage was recorded. If:**

(1) an instrument referred to in subsection (a) is recorded; and

(2) the instrument does not comply with the:

(A) requirements of:

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(i) IC 32-21-2-3; or

(ii) IC 32-21-2-7; or

(B) technical requirements of IC 36-2-11-16(c);

the instrument is validly recorded and provides constructive notice of the contents of the instrument as of the date of filing."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1111 as printed January 25, 2008.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

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